

LS 5-535A

10 March 1955

MEMORANDUM FOR: Director of Personnel

SUBJECT :

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1. I think the best way to give you my thoughts is to start by answering the specific questions raised by [REDACTED]

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a. There is, of course, no requirement that the Agency give her a bill of particulars covering the disqualification, and I believe the policy has been established that we will not give a written statement that security considerations are not involved. Since her appointment on 17 January was probational and subject to a medical examination, I assume the personnel action on termination would read "Failure to meet medical standards" or some such language. She could be informed that on applying for other Government work requiring security clearance the results of our security investigation would be made available to the new employing agency and that we know of nothing therein that would tend to bar her on security grounds. Of course, the new Agency would make its own medical evaluation.

b. While no other employee of the Agency has actually tested an action of this sort in court, the principles involved have been thoroughly tested on a variety of occasions. These principles are the fact that Government employment is a privilege not a right, that probationary periods may be administratively established, and conditions set which must be met in order to continue employment.

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c. Since this termination would be on failure to meet a specific condition set forth in a probationary appointment, the seven rules promulgated by the President in connection with the security program appear not to have any bearing on this case.

c. If an eminent psychiatrist gave her a clean bill of health, I should think our attitude would be that we would be glad to consider his findings and conclusions but that we must be bound in the end by the opinion of our own medical staff.

2. The sum total of the above is that legally and technically we are probably in a very strong position. I have serious reservations, however, whether it would be in the best interest of the Agency to stand on our technical rights. The Agency is not an isolated entity operating in a void; it is an integral part of the governmental and social structure which gives rise to reciprocal rights and obligations. There is also from the selfish point of view the question of good public relations. In the light of these broader aspects, if there is a good reason for disqualifying [redacted] there should be some means of assuring that she is properly informed of the basis for the disqualification and to assist her in understanding what it means for her in the future and in other Government employment. This has arisen repeatedly in security cases and, of course, there we are occasionally faced with the necessity for protection of confidential informants and the resulting inability to inform the employee accurately or in detail. I do not perceive any basis for the same inability in connection with information on the employee's medical disqualification, when the medical opinion involved is based on medical consultation with the employee herself. There appears to be a field here in which responsibility has not been specifically defined, but the fact remains that if termination is required it involves a personnel action for which you are responsible.

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18
LAWRENCE R. HOUSTON
General Counsel

Attachment - Personnel File on
OGC:LHH:job [redacted]
cc: OGC chrono - do not circulate
✓ subject "Personnel-16"

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